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BY ELECTRONIC FILING

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

**Re: *Use of Spectrum Bands Above 24 GHz for Mobile Radio Services, et. al.*, GN
Docket No. 14-177, IB Docket No. 15-256, WT Docket No. 10-112, and IB
Docket No. 97-95**

Dear Ms. Dortch,

Adams Telcom Inc. (“Adams”), Central Texas Communications, Inc. (“Central Texas”), E.N.M.R. Telephone Cooperative (“E.N.M.R.”), Horry Telephone Cooperative (“HTC”), Louisiana Competitive Telecommunications, Inc. (“LCT”), and Pine Belt Communications, Inc. (“Pine Belt”) (together, the “Rural LMDS Licensees”) submit this brief response to the Satellite Broadband Companies’ (“SBCs”) recent letters¹ filed in the above captioned proceeding (“Spectrum Frontiers Order”).² Although the SBCs continue to seek additional spectrum allocations in the 28 GHz band through the backdoor, the Federal Communications Commission (“FCC” or the “Commission”) should affirm its existing rules that would give incumbent rural operators a chance to utilize spectrum paid for at auction to support next-generation connectivity.

¹ Letter from Audrey L. Allison, Jennifer A. Manner, Giselle Creeser, Susan H. Crandall, Suzanne Malloy, Petra A. Vorwig and Mariah Shuman to Marlene H. Dortch, GN Docket No. 14-177, *et al.* (May 9, 2017) (“SBC Ex Parte 5.9.17”); and Letter from Audrey L. Allison, Jennifer A. Manner, Giselle Creeser, Susan H. Crandall, Suzanne Malloy, Petra A. Vorwig and Mariah Shuman to Marlene H. Dortch, GN Docket No. 14-177, *et al.* (June 9, 2017) (“SBC Ex Parte 6.9.17”).

² *Use of Spectrum Bands Above 24 GHz For Mobile Radio Services et al.*, GN Docket No. 14-177 *et al.*, Report and Order and Further Notice of Proposed Rulemaking, FCC 16-89 (WTB 2016) (“Spectrum Frontiers Order”).

As the Spectrum Frontiers Order and the record make clear, the core purpose of this proceeding is to promote advanced mobile services, particularly fifth generation (“5G”) services, in millimeter wave spectrum.³ Nevertheless, the SBCs appear to improperly treat this proceeding as a potential spectrum grab. These large satellite companies seek to gain a competitive advantage by infringing on the spectrum rights of incumbent terrestrial operators, who offer the greatest potential for deploying mobile and fixed services. Despite the technological difficulties that incumbent LMDS licensees have faced in the 28 GHz band and the otherwise significant challenges associated with broadband deployment in rural America, the Rural LMDS Licensees are committed to providing advanced broadband services to their local communities. They cannot do so, however, if their LMDS licenses are subject to additional satellite encroachment and interference in already-licensed service territories.

The Spectrum Frontiers Order provided the Rural LMDS Licensees with a clear path to utilizing their licensed spectrum to bring 5G services to their local communities. As Competitive Carriers Association points out, “regional and rural carriers use LMDS spectrum for point-to-point services, but also view this spectrum as essential to future network expansion.”⁴ The record in this proceeding has made clear that deploying services in the 28 GHz band has been challenging for all licensees due to the lack of equipment options. Despite that, Rural LMDS Licensees have made use of this spectrum, as required by Commission rules. Now, with the help of technological advancements, new investment in the band suggests the appropriate equipment will soon be available to allow expanded fixed and mobile networks in the 28 GHz band. Pine Belt, for example, is currently exploring the possibility of increasing its network in Demopolis and Selma, Alabama and extending services to other small municipalities such as Camden, Alabama, using new multipoint-to-multipoint equipment that has only recently become commercially available.⁵ In fact, all the Rural LMDS Licensees are actively investigating new opportunities to utilize the band in the wake of the new rules enacted in this proceeding – which is exactly what the FCC intended terrestrial operators to do.

The FCC will quell opportunity to provide better fixed and mobile coverage and service, if it grants the SBCs’ proposal to broaden satellite use of the 28 GHz band. As the Commission acknowledged, “allowing new earth stations in the 28 GHz band is not without cost to terrestrial licensees.”⁶ Now, the SBCs are asking for significantly greater rights through their proposed “tiered approach.”⁷ The SBCs propose to do away with any limit on the number of additional

³ Spectrum Frontiers Order, ¶ 1.

⁴ Letter from Rebecca Murphy Thompson to Marlene H. Dortch, GN Docket No. 14-177, *et al.* (May 2, 2017) at 9.

⁵ Additionally, the Rural LMDS Licensees believe that with the Spectrum Frontiers Order, Verizon’s proposed acquisition of Straight Path Communications and AT&T’s acquisition of FiberTower, there will be a proliferation of technology and equipment in the 28 GHz band of which rural carriers can finally take advantage.

⁶ Spectrum Frontiers Order, ¶ 47.

⁷ The SBC proposes the following earth station siting rule: Tier 1 (population greater than 300,000) FSS earth stations may cover no more than 0.2% of the license area’s population; Tier 2 (population between

FSS sites per license area, and coverage limits up to 10%, or 100 times the current limit, in more sparsely populated areas.⁸ If SBC's proposal is adopted, the hurdles to terrestrial providers deploying in these rural areas could be insurmountable, which would harm rural America's ability to keep up with the wireless innovations in urban and suburban America.⁹

Further, the examples the SBCs used in their latest filing do not fully depict the effect their proposed tiered system would have in a rural area.¹⁰ The filing also underlines a disconnect between the experience of large satellite service providers with unproven "big plans" and the small local operators who have long invested in connecting their own communities, and putting money toward improving that connectivity alongside local economic or population growth. The SBCs discuss the impact their proposal would have on populous San Diego County, a far cry from the rural, relatively sparsely-inhabited regions LMDS licensees serve. Next, the SBCs discuss a hypothetical "Tier 2" county, modeled after Woodbine, MD with a population of 167,134 which would leave "166,534 out of 167,134 people in the county totally unencumbered by satellite operations," or 600 people encumbered.¹¹ The SBCs admit that applying their proposal to a "Tier 3" county, with a much smaller population, will encumber almost the exact same amount of people. The SBC proposal would cause interference to 599 people of a rural "Tier 3" county consisting of only 5,994 people total.¹²

The Rural LMDS Licensees appreciate and would like to make clear that *600 is not a paltry number of customers to a small wireless provider*, especially in areas where return on investment in broadband services is far from guaranteed. Further, the SBCs cannot predict which areas in their service footprint may grow more populated in time and skew these numbers or interference boundaries. Incumbent LMDS licensees, particularly those in rural America, invested a great deal to acquire promising 28 GHz spectrum and to meet the often-challenging buildout requirements, partly in expectation that their service areas would develop; it is not in the

6,000 and 300,000) FSS earth stations may cover a total of 600 people without reference to the license area's population; Tier 3 (population less than 6,000) FSS earth stations may cover 10% of the license area's population. SBC Ex Parte 6.9.17 at 2.

⁸ At ten percent (10%) of the population, the FSS earth stations would cover the most densely populated areas of the rural license. For example, in attachment 3 of the SBC' June 9, 2017 ex parte, the proposed earth station is located in the county's most populated area. That area would likely be the best area for the terrestrial licensees to deploy 5G. SBC Ex Parte 6.9.17, Attachment 3.

⁹ The Rural LMDS Licensees are also concerned with the SBC proposed alternative definitions of "major event venue" and "passenger railroad." SBC proposes defining "major event venue" as one with a capacity of 10,000 people or more. Such a definition would exclude many high school and college stadiums and concert venues, the exact locations where deployment of advanced broadband services makes the most sense in a rural county. Similarly, the SBC definition of "passenger railroad" excludes regional commuter railroads. *See* Ex Parte Letter from Audrey L. Allison, Jennifer A. Manner, Giselle Creeser, Susan H. Crandall, Suzanne Malloy, Petra A. Vorwig and Mariah Shuman to Marlene H. Dortch, GN Docket No. 14-177, *et al.* (Mar. 31, 2017) at 6.

¹⁰ SBC Ex Parte 6.9.17 at 3.

¹¹ *Id.*

¹² *Id.*

public interest to allow satellite companies without the same foresight or community interest to realize the benefit of the Rural LMDS licensees' respective long-held interests.

The Rural LMDS Licensees are dedicated to serving their local communities. As such, Rural LMDS licensees urge the Commission to hold firm on its vision promoting 5G leadership by maintaining the regulatory balance that encourages, rather than undermines incumbent licensees' efforts to deploy fixed and mobile 5G services to rural America in direct concert with the goal of this proceeding and Commission policy to bridge the digital divide. The Commission should not allow the opportunistic proposals from the SBCs thwart those objectives.

Sincerely,



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